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In re Application of : **OFFICE OF PETITIONS**
McCarty, et al. :
Application No. 09/649,473 :
Filed: August 28, 2000 : **ON PETITION**
Attorney Docket No.: PAR-115-C :
:

This is a decision on the "Petition under 37 CFR 1.182 or 1.183 Requesting Entry of Amendment", filed February 12, 2008. The petition will be treated under 37 CFR 1.182.

The petition is **DISMISSED**.

The above-noted abandoned application failed to make a specific reference to the prior-filed applications; namely, 08/314,864, filed September 29, 1994, and provisional application 60/066,589, filed November 6, 1997, prior to abandonment. Petitioner now requests that the abandoned application be amended by inserting a reference to the earlier-filed applications. The petition is accompanied by an amendment to include a reference to the prior-filed applications in the first line of the specification following the title of the invention.

It is noted that the references required by 35 U.S.C. § 120 and 35 U.S.C. § 119 to the prior-filed applications include an incorporation by reference statement incorporating the entire disclosure of prior-filed applications 08/314,864 and provisional application 60/066,589. It is further noted that the subject application did not contain an incorporation by reference statement on filing in either the specification or application transmittal sheet that included applications 08/314,864 and 60/066,589. The incorporation by reference statement included in the reference required by 35 U.S.C. § 120 and 35 U.S.C. § 119 is improper as it seeks to include new matter in the application after filing. See 35 U.S.C. § 132. The reference required by 35 U.S.C. § 120 and 35 U.S.C. § 119 is, therefore, made improper by the inclusion of the incorporation by reference statement.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.182. NO ADDITIONAL PETITION FEE IS REQUIRED.

Further correspondence with respect to this matter should be addressed as follows:

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/Kenya A. McLaughlin/

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Enclosure: Notice of Acceptance of Power of Attorney